

MONTANA LEGISLATIVE HISTORY

Chapter 461 19 91

Bill H _____ S 400 Original bill & history ☒ C

H. Committee on Natural Resources

Hearing Date(s) 3/19 ☒ C

_____ C

_____ C

_____ C

Date Out

3/19 ☒ C

S. Committee on Natural Resources

Hearing Date(s) 2/20 ☒ C

_____ C

_____ C

_____ C

2/20 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

SENATE FINAL STATUS

SB 402

3/20 TRANSMITTED TO GOVERNOR
 3/25 SIGNED BY GOVERNOR
 CHAPTER NUMBER 158

EFFECTIVE DATE: 10/01/91

SB 400 INTRODUCED BY VAN VALKENBURG
 ABSOLUTE LIABILITY SOLID WASTE DISPOSAL

2/15	INTRODUCED		
2/15	FIRST READING		
2/15	REFERRED TO NATURAL RESOURCES		
2/20	HEARING		
2/21	COMMITTEE REPORT—BILL PASSED		
2/23	2ND READING PASSED	49	0
2/25	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO NATURAL RESOURCES		
3/19	HEARING		
3/20	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/05	2ND READING CONCURRED AS AMENDED	86	9
4/06	3RD READING CONCURRED	82	11
	RETURNED TO SENATE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS CONCURRED	45	0
4/10	3RD READING AMENDMENTS CONCURRED	50	0
4/13	SIGNED BY PRESIDENT		
4/15	SIGNED BY SPEAKER		
4/15	TRANSMITTED TO GOVERNOR		
4/17	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 461		

EFFECTIVE DATE: 10/01/91

SB 401 INTRODUCED BY PIPINICH

REQUIRE THAT DEPARTMENT OF FISH, WILDLIFE, & PARKS
 SEIZE GAME BEING TRANSPORTED BY VEHICLE IN AN
 AREA LEGALLY CLOSED TO THE USE OF VEHICLES

2/15	INTRODUCED		
2/15	FIRST READING		
2/15	REFERRED TO FISH & GAME		
2/21	HEARING		
2/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/23	2ND READING PASSED	49	0
2/25	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO FISH & GAME		
3/13	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/20	2ND READING CONCUR MOTION FAILED	37	61

SB 402 INTRODUCED BY YELLOWTAIL, ET AL.

REQUIRE MONTANA MEMBERS OF THE PACIFIC NORTHWEST
 ELECTRIC POWER AND CONSERVATION PLANNING
 COUNCIL TO HOLD AT LEAST ONE PUBLIC HEARING
 IN A GEOGRAPHIC AREA AFFECTED BY THE PROPOSED
 ACQUISITION OF MAJOR RESOURCES FROM THAT AREA

2/15	INTRODUCED		
2/16	FISCAL NOTE REQUESTED		
2/16	FISCAL NOTE RECEIVED		
2/16	FIRST READING		
2/16	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.		
2/22	HEARING		
2/22	FISCAL NOTE PRINTED		
2/23	COMMITTEE REPORT—BILL NOT PASSED		
2/23	ADVERSE COMMITTEE REPORT ADOPTED	25	24

1 *Senate* BILL NO. 400
2 INTRODUCED BY V. Valkenburg
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING ABSOLUTE
5 LIABILITY ON THE OWNER OR FORMER OWNER OF SOLID WASTE
6 DISPOSED OF IN VIOLATION OF STATE LAW; IMPOSING A CIVIL
7 PENALTY FOR PERSONS FOUND ABSOLUTELY LIABLE; AND AMENDING
8 SECTIONS 75-10-212 AND 75-10-233, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 75-10-212, MCA, is amended to read:

12 "75-10-212. Disposal in unauthorized area prohibited --
13 exception. (1) No person may dispose of solid waste except
14 as permitted under this part.

15 (2) It shall be unlawful to dump or leave any garbage,
16 dead animal, or other debris or refuse:

17 (a) in or upon any highway, road, street, or alley of
18 this state;

19 (b) in or upon any public recreational property,
20 highway, street, or alley under the control of the state of
21 Montana or any political subdivision thereof or any officer
22 or agent or department thereof;

23 (c) within 200 yards of such public highway, road,
24 street, or alley or public recreational property;

25 (d) on privately owned property where hunting, fishing,

1 or other recreation is permitted, provided this subsection
2 shall not apply to the owner, his agents, or those disposing
3 of debris or refuse with the owner's consent.

4 (3) The owner or former owner of any garbage, dead
5 animal, or other debris or refuse disposed of in violation
6 of this section is absolutely liable, as provided in
7 45-2-104, and is subject to the civil penalties provided in
8 75-10-233."

9 **Section 2.** Section 75-10-233, MCA, is amended to read:

10 "75-10-233. Dumping penalty -- enforcement. (1) Any A
11 person found guilty of a violation of 75-10-212+2+ 75-10-212
12 shall be fined in the sum not exceeding \$100 or imprisoned
13 in the county jail for a period not exceeding 30 days or be
14 punished by both such fine and imprisonment, in the
15 discretion of the court.

16 (2) A person found absolutely liable under 75-10-212 is
17 subject to a civil penalty not to exceed \$1,000. Each day of
18 violation constitutes a separate offense.

19 (3) The provisions of 75-10-212+2+ 75-10-212 shall be
20 enforced by all highway patrol officers, sheriffs,
21 policemen, and all other enforcement agencies and officers
22 of the state of Montana. In addition, game wardens shall
23 have the right to enforce the provisions of 75-10-212+2+ 75-10-212
24 on public recreational property and on private
25 property where public recreation is permitted."

-End-
-2-

INTRODUCED BILL
SB 400

MONTANA LEGISLATIVE COUNCIL BILL STATUS SYSTEM
 FINAL COMMITTEE REPORT OF REFERRED BILLS
 COMMITTEE--(S) NATURAL RESOURCES

PAGE NBR..... 260
 RUN TIME18:04
 RUN DATE.... 04/26/91

CHAIRMAN--LAWRENCE STIMATZ
 NORMAL SCHEDULE==> SITE: ROOM 405

DAYS: M,W,F

TIME: 3:00 P.M.

SECRETARY-ROBEFTA OPEL

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0340	2/09			TABLED		
BIANCHI, DON			INCREASE FISHING LICENSE FEES AND USE REVENUE TO ENHANCE INSTREAM FLOWS			
SB0346	2/11	2/18		DO PASS		2/19
HARP, JOHN			DIFFERENTIAL FEE ON THE DISPOSAL OF OUT-OF-STATE SOLID WASTE			
SB0355	2/12	2/20		PASS AS AMENDED		2/21
BECK, TOM			PROVIDING FOR WAIVER OF CERTAIN UNDERGROUND STORAGE TANK INSPECTIONS & FEES			
SB0357	2/12	2/20		DO PASS		2/21
BECK, TOM			REQUIRE DHES TO CONSULT WITH LOCAL GOVT'S ABOUT SOLID WASTE FACILITIES			
SB0377	2/14	2/22		DO PASS		2/23
JERGESON, GREG			EXEMPTING CERTAIN UNDERGROUND STORAGE TANK INSTALLERS FROM CIVIL PENALTIES			
SB0386	2/14	2/22		DO PASS		2/23
BENGTSON, ESTHER			WATER RIGHTS TRANSFER			
SB0400	2/15	2/20		DO PASS		2/21
VAN VALKENBURG, FRED			ABSOLUTE LIABILITY SOLID WASTE DISPOSAL			
SB0425	2/18	2/22		DO PASS		2/23
GROSFIELD, LORENTS			WATER LEASING STUDY EXTENSION			
SB0426	2/18	2/22		DO PASS		2/23
GROSFIELD, LORENTS			WILDERNESS WATER RIGHTS			
SB0472	4/13	4/17		DO PASS		4/18
MAZUREK, JOE			MONTANA-NORTHERN CHEYENNE WATER COMPACT			
SJ0006	1/17	1/25		DO PASS		1/29
SWIFT, BERNIE			CONTINUING MONTANA'S MEMBERSHIP IN W. STATES LEGISLATIVE FORESTRY TASK FORCE			

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Senator Stimatz, on February 20, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Lawrence Stimatz, Chairman (D)
Cecil Weeding, Vice Chairman (D)
John Jr. Anderson (R)
Esther Bengtson (D)
Don Bianchi (D)
Steve Doherty (D)
Lorents Grosfield (R)
Bob Hockett (D)
Thomas Keating (R)
John Jr. Kennedy (D)
Larry Tveit (R)

Members Excused: None

Staff Present: Michael Kakuk (EQC).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None.

HEARING ON SENATE BILL 400

Presentation and Opening Statement by Sponsor:

Senator Fred Van Valkenburg, District 30, said Senate Bill 400 is an attempt to establish strict liability for individuals dumping solid waste on someone else's property. He stated that, very often, when these matters are discovered and investigated, the person identified as the dumper of the solid waste will disclaim any knowledge of the situation. Senator Van Valkenburg further stated that people have to take greater responsibility for their waste products and that there are some instances where the ability to impose fines is significant. He commented on the burden of proof in a legal action, and said that, in some ways,

SB 400 is more of a judiciary bill. Senator Van Valkenburg explained that, under strict liability, a person cannot be put in jail, but can be subject to a fine.

Proponents' Testimony:

Dave Wall, Deputy Sheriff, Missoula County, said he is responsible for ground control and covers rural areas of the county most of the time. He stated that with the increased cost of landfills, people are dumping on private, BLM (Bureau of Land Management), and forest service lands, as well as creeks. Mr. Wall explained that SB 400 provides a peace officer with the ability to find the "culprits," and write them a citation to see a judge without having to file with the county attorney or the sheriff's detective division for insufficient evidence.

Manx Skillicorn, Manager of Security, Champion International, said Champion owns about 900,000 acres in the state, most of which are open to the public and are roaded. He explained that his duties involve investigation of dumpings and providing information to law enforcement. Mr. Skillicorn stated that he would like to see the burden of proof put on the individual that dumped the garbage, rather than on law enforcement.

Mr. Skillicorn provided photographs for the Committee to review.

Opponents' Testimony:

There were no opponents of SB 400.

Questions From Committee Members:

Senator Hockett asked what the difference is between common trash and hazardous waste, and said he has a problem with burning in large coulees where chemical barrels are dumped. Senator Van Valkenburg replied that the definition of solid waste would apply unless the Committee decided to limit the application to something other than what is in the 75-10-203, MCA, subsection (10).

Senator Keating asked about part (d) at the bottom of page 1 and the top of page 2, and what happens to a property owner who allows hunting or fishing and is left with the entrails of animals or fish. Senator Van Valkenburg replied that he did not think the owner would be consenting to a hunter leaving entrails or a carcass. He stated that new language in the bill refers to dead animals as solid waste, and that he didn't believe anyone would be prosecuted for throwing fish entrails in bushes. He further stated that it doesn't necessarily mean the owner is not going to waive liability if an enforcement officer comes along and says that isn't supposed to be done. Senator Van Valkenburg advised the Committee that he hoped no one would raise that as a technicality.

Senator Weeding commented that, at one time, the remedy was to require that the person doing the dumping come back and pick the stuff up. He asked if this is still the case. Senator Van Valkenburg replied he did not know the answer, but would find out.

Senator Tveit commented that similar legislation was before the Committee in 1987, dealing with strewing of garbage along highways.

Closing by Sponsor:

Senator Van Valkenburg thanked the Committee and said he realized that the \$1000 per day penalty is very stringent. He commented that there will be very rare circumstances where this penalty might be imposed and said it is much more likely that \$100 civil penalties will be assessed. He explained that people who are dumping refrigerators and couches in coulees because they don't want to spend \$5 or \$10 to at the solid waste disposal site, ought to have the burden of proof put on them.

EXECUTIVE ACTION ON SENATE BILL 400

Motion:

Senator Kennedy made a motion that Senate Bill 400 DO PASS.

Discussion:

Senator Tveit asked Senator Hockett to elaborate on his earlier comment concerning dumping in coulees. Senator Hockett replied that this applies to everything that is dumped on one's land at anytime and said people may need to fence off their land.

Amendments, Discussion, and Votes:

There were none.

Recommendation and Vote:

The motion made by Senator Kennedy carried unanimously.

HEARING ON SENATE BILL 268

Presentation and Opening Statement by Sponsor:

Senator Paul Svrcek, District 26, said Senate Bill 268 attempts to set up a system to provide preference for recycled materials and for the state to purchase such materials. He explained that he had planned an exhibit, but the builder (with whom he had been working on the bill) had other commitments and could not be present. Senator Svrcek advised the Committee that he did not sign the fiscal note because he believes it is narrowly

ROLL CALL VOTE / Attendance

SENATE COMMITTEE Natural Resources

Date 2/20/91 Bill No. _____ Time 3pm

NAME	YES	NO
<u>Natural Resources</u>		
Senator Anderson	✓	
Senator Bengston	✓	
Senator Bianchi	✓	
Senator Doherty	✓	
Senator Grosfield	✓	
Senator Hockett	✓	
Senator Keating	✓	
Senator Kennedy	✓	
Senator Tveit	✓	
Senator Weeding, Vice Chairman	✓	
Senator Stimatz, Chairman	✓	

Robert C. Gzel
Secretary

Chairman

Motion: _____

DATE 2-20-91

COMMITTEE ON Physical Sciences

VISITORS' REGISTER

[illegible]

CHAIRMAN--BOB RANEY

NORMAL SCHEDULE==> SITE: ROOM 317

DAYS: TU,TH

TIME: 3:00 P.M.

SECRETARY-LISA FAIRMAN

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0377	3/04	3/22		CONCUR		4/02
JERGESON, GREG			EXEMPT CERTAIN UNDERGROUND STORAGE TANK INSTALLERS FROM CIVIL PENALTIES			
SB0386	3/04	3/21		CONCUR		4/02
BENGTSON, ESTHER			WATER RIGHTS TRANSFER			
SB0400	3/04	3/19		CONCUR AS AMENDED		3/20
VAN VALKENBURG, FRED			ABSOLUTE LIABILITY SOLID WASTE DISPOSAL			
SB0402	3/04	3/12		CONCUR AS AMENDED		3/13
YELLOWTAIL JR., BILL			REQUIRES NW POWER PLANNING COUNCIL TO HOLD PUBLIC HEARING IN AFFECTED AREAS			
SB0407	3/21	4/01		CONCUR AS AMENDED		4/11
WATERMAN, MIGNON			CLARIFY THE DEFINITION OF "PUBLIC WATER SUPPLY SYSTEM"			
SB0425	3/04	3/21		CONCUR AS AMENDED		3/23
GROSFIELD, LORENTS			EXTEND THE PERIOD OF INITIAL WATER LEASES			
SB0426	3/04	3/21		TABLED ON 04/02		
GROSFIELD, LORENTS			WILDERNESS WATER RIGHTS			
SB0434	3/04	3/22		CONCUR AS AMENDED		4/02
BECK, TOM			UPPER CLARK FORK BASIN CLOSURE			
SB0455	3/04	3/12		TABLED ON 03/12		
THAYER, GENE			FIRST RIGHT OF PURCHASE OR RENEWAL OF LEASED RIGHT-OF-WAY			
SB0472	4/19	4/22		CONCUR AS AMENDED		4/23
MAZUREK, JOE			MONTANA-NORTHERN CHEYENNE WATER COMPACT			
SJ0006	2/01	2/11		CONCUR	APPROPRIATIONS	3/13
SWIFT, BERNIE			CONTINUING MONTANA'S MEMBERSHIP IN W. STATES LEGISLATIVE FORESTRY TASK FORCE			

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRPERSON BOB RANEY, on March 19, 1991, at 3:20 p.m.

ROLL CALL

Members Present:

Bob Raney, Chairman (D)
Mark O'Keefe, Vice-Chairman (D)
Beverly Barnhart (D)
Vivian Brooke (D)
Ben Cohen (D)
Ed Dolezal (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
David Hoffman (R)
Dick Knox (R)
Bruce Measure (D)
Tom Nelson (R)
Bob Ream (D)
Jim Southworth (D)
Howard Toole (D)
Dave Wanzenried (D)

Staff Present: Gail Kuntz, Environmental Quality Council
Paul Sihler, Environmental Quality Council
Lisa Fairman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON SB 209

Presentation and Opening Statement by Sponsor:

SEN. BILL YELLOWTAIL, SD 50 - Wyola, presented SB 209, one of a package of bills arising from interim work of the Environmental Quality Council (EQC) relating to solid waste management. He said Montana needs to retain state primacy, and have the ability to provide technical assistance to local governments who have the regulatory burden. As a result of Subtitle "D" regulations, there will be substantial new movement in Montana toward consolidation and closure of local solid waste management dumps. Local governments need help to respond. Primacy offers the state the

business. It means you may have to raise rates or refinance.

REP. COHEN asked if counties, as a result of tax deficiencies, could levy taxes not to exceed two mills. REP. GILBERT said yes, that would be one method. REP. COHEN asked if that would mean a tax on everyone living within the district or only on people being served by the joint district. Mr. Huntington said it would be everyone who owns property in the district.

REP. WANZENRIED asked if there would be a vote in single or multi-county districts. Mr. Huntington said there can be a vote in a multi-county district if people want to back the bonds with more than two mills.

REP. COHEN asked if it would be correct to say a multi-county unregulated monopoly would be created, given that property owners who do not utilize the service have to pay for it. Mr. Huntington said no.

REP. WANZENRIED asked how the debt is divided between the two jurisdictions if there were a deficiency in multi-county districts. Mr. Huntington said all counties participate in the creation of the district and, as part of the initial resolution, agree whether to provide a two mill limited tax pledge or not. If there is a two mill limited tax pledge, the counties would decide how to divide it.

REP. COHEN asked what kind of annual budget there would be. Mr. Huntington said there would be a full range of budgets. REP. COHEN asked how often boards meet and if there were any requirement for board members to have expertise or experience in pertinent areas. Mr. Huntington said the whole board meets at least once per year. The executive committee meets more often. Current law requires the board to include sanitarians from the county, a representative of county government and a representative from each municipality within the district.

Closing by Sponsor:

REP. GILBERT said the bill tries to address needs created by subtitle regulation and resulting landfill closures. Privatization may be needed and the amendments try to allow that. He does not oppose privatization, but a partnership between the two is needed.

HEARING ON SB 400

Presentation and Opening Statement by Sponsor:

SEN. FRED VAN VALKENBURG, SD 30 - Missoula, said SB 400 was introduced at the request of a major landowner in western Montana to deal with the issue of illegal and improper disposal of solid waste on private land. Entities like Champion International and other large landowners find people dumping waste into gullies,

ravines and out-of-the-way areas. Law enforcement is able to use serial numbers, mail or other items left at the site to determine the source of the solid waste, but is often unable to prove that the owner of the refuse dumped it at that site. SB 400 would make improper dumping and disposal of solid waste a liability offense, which would remove the need to prove a criminal offense. It would subject the responsible party to civil fines as opposed to criminal penalties. This would be a significant deterrent.

Proponents' Testimony:

Tucker Hill, Champion International Corp. in Missoula, supported the bill. He said Champion owns about 900,000 acres in western Montana. The majority of land is open for recreational use. SB 400 provides some protection. He showed photographs of waste illegally dumped on Champion land.

Ms. Kaufmann, MEIC, supported the bill. She said it is important to encourage people to do the right thing and not dispose of garbage illegally.

Opponents' Testimony: none

Questions From Committee Members:

REP. HOFFMAN said he was confused on the crossover from criminal to civil under the absolute liability statute. He asked if the action of dumping illegally creates the absolute liability. SEN. VAN VALKENBURG said yes.

REP. GILBERT said he supported the concept of the bill but is concerned that duplication of penalties might occur because a bill sponsored by REP. STELLA JEAN HANSEN, HD 57 - Missoula, has already been passed by the committee. SEN. VAN VALKENBURG said he knows of nothing that would legally prohibit someone from being subjected to both a criminal and civil penalty if a court decided that was an appropriate sanction. He indicated he was not familiar with REP. HANSEN's bill.

REP. COHEN told SEN. VAN VALKENBURG that he was concerned about whether public lands were covered in the language. SEN. VAN VALKENBURG said that under Subsection 2b, if garbage is dumped in or upon any public recreational property under the control of the state of Montana or any political subdivision thereof, it is a violation of the law. U.S. Forest Service or Bureau of Land Management land may not be covered, unless it is covered under recreational property.

REP. COHEN said the phrase "public recreational property" bothers him. If it is land in a timber sale, it is not recreational. He asked if other state lands, such as agriculture lease lands, are covered in the bill. SEN. VAN VALKENBURG said he did not find something immediately that covers that land. If an amendment were drafted to cover those lands he would not object.

REP. TOOLE asked if the intent of the bill is to have a criminal and a civil penalty for dumping. SEN. VAN VALKENBURG said that if a person's mental state can be proven, the addition of a jail term ought to be available.

REP. TOOLE said he can't find that intent in the bill. He asked if it would be agreeable to amend it in if the intent is not clearly stated. SEN. VAN VALKENBURG said yes.

REP. TOOLE said he was bothered by a civil penalty of \$1,000 per day for a person who might unwittingly be charged with a multiple-day offense. SEN. VAN VALKENBURG said the penalty is not to exceed \$1,000 per day. It is important to put this in context with everything else about solid waste. There may be violations that would justify that type of penalty.

Closing by Sponsor:

SEN. VAN VALKENBURG closed.

HEARING ON SB 268

Presentation and Opening Statement by Sponsor:

SEN. PAUL SVRCEK, SD 26 - Thompson Falls, said SB 268 provides for a 15 percent preference for state purchase of recycled materials. The 15 percent figure was determined through work with the Department of Administration. The bill originally required all public agencies to provide a preference. In the Senate committee hearing, MACO, the League of Cities and Towns, and a representative from Billings thought preference for purchasing recycled material was a good idea, but it would be onerous for the state to impose it on local governments without any monetary assistance.

The bill now applies to state agencies only. Another significant change in the bill is on Page 3. It is no longer a mandatory preference; it is discretionary. This was agreed to because of financial considerations. The purchase of recycled materials is important, and the process needs to be started. The bill is permissive, but it is a start. Some technical amendments need to be put in.

Proponents' Testimony:

Rick Meis, Treecycle Paper in Bozeman, supported SB 268.
EXHIBITS 11-12

Ms. Kaufmann, MEIC, said a rulemaking procedure addresses some of the definitions and concerns Mr. Meis presented. SB 268 works together with HB 160, which establishes a task force. SB 268 does not mandate use of recycled products; it provides a preference. She urged support of the bill.

Kristin Page, MontPIRG, supported the bill as part of the effort to encourage integrated waste management to reduce, recycle and reuse solid waste. SB 268 provides positive guidelines to encourage use of recycled materials.

Ms. Lee, Montana Audubon Legislative Fund, strongly supported SB 268. She said it is a comprehensive program for the state. An organized plan that will reduce use through conservation, tap into the recycled products market, and increase recycling practices by agencies and individuals.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor:

SEN. SVRCEK said he will get amendments to the committee. He emphasized that the plan is not mandatory, but it is a start.

EXECUTIVE ACTION ON SB 400

Motion: REP. COHEN MOVED SB 400 BE CONCURRED IN.

Motion: REP. COHEN moved to amend SB 400 to strike the word "recreational" on Page 1, Line 19, and on Page 2, Line 24.

Discussion: REP. BROOKE asked if the amendment on Page 2 stated that game wardens have the right to enforce the provisions on public and private property. REP. COHEN said yes.

Vote: Motion to adopt REP. COHEN's amendment carried unanimously.

Discussion: REP. TOOLE said he does not like the language "each day of violation constitutes a separate offense." A maximum of \$1,000 would be sufficient.

Motion: REP. TOOLE MOVED TO STRIKE THE SECOND SENTENCE OF SUB 2, LINE 17 AND 18, PAGE 2.

Discussion: REP. O'KEEFE said that if the language is removed, he would like to see the "not to exceed" amount raised. Solid waste that is dumped could be so despicable that the fine should be more than \$1,000. REP. TOOLE said that repeated dumping is a separate offense that could get a separate penalty.

REP. RANEY suggested that each offense be fined \$1,000. REP. TOOLE said that would get away from what SEN. VAN VALKENBURG was trying to do, which is to make a person responsible if their debris is found dumped.

Motion/Vote: REP. O'KEEFE MADE A SUBSTITUTE MOTION TO STRIKE \$1,000 ON LINE 17, PAGE 2, AND INSERT \$5,000, AND AFTER THE PERIOD ON THAT LINE, TO STRIKE ALL THE LANGUAGE TO THE END OF

LINE 18. Motion carried unanimously.

Motion: REP. BROOKE MOVED SB 400 BE CONCURRED IN AS AMENDED.

Discussion: REP. TOOLE expressed concern about the way Sub 3, Line 4, Page 2, refers to only civil penalty. He said it should either be left alone or the words "and criminal penalties" on Line 7 after the word "civil" should be omitted.

Vote: Motion that SB 400 be concurred in as amended carried unanimously. Reps. Ream and Wanzenried were absent for voting.

REP. SOUTHWORTH volunteered to carry the bill.

EXECUTIVE ACTION ON SB 209

Motion: REP. GILBERT MOVED SB 209 BE CONCURRED IN.

Discussion: REP. RANEY said a technical amendment is needed. The reference to SB 377 should be HB 377.

Motion/Vote: REP. RANEY MOVED TO STRIKE "SENATE" ON LINE 21, PAGE 12, AND INSERT "HOUSE". Motion carried unanimously.

Motion: REP. GILBERT MOVED TO REINSERT LANGUAGE ORIGINALLY IN THE BILL ON THE BOTTOM OF PAGE 2 THROUGH PAGE 3, STRIKING LANGUAGE INSERTED BY THE SENATE AND READJUSTING THE LICENSE AND APPLICATION FEES TO THE AMOUNT INITIALLY INTRODUCED.

Discussion: Paul Sihler, EQC, asked the committee to pass a conceptual amendment if it decides to amend the bill so that he can work on the sections as needed.

Vote: Motion to adopt a conceptual amendment carried unanimously.

Motion: REP. GILBERT MOVED SB 209 BE CONCURRED IN AS AMENDED. Motion carried unanimously. Reps. Ream and Wanzenried were absent from voting.

REP. GILBERT said he would carry SB 209.

EXECUTIVE ACTION ON SB 346

Motion: REP. GILBERT MOVED SB 346 BE CONCURRED IN.

Discussion: REP. Gilbert said the top of Page 2 talks about a \$5 per ton fee. That fee is an arbitrary number. If waste is imported, the fee will be adjusted up or down according to the actual cost to the state.

Vote: Motion carried unanimously. Reps. Ream and Wanzenried were absent for voting.

REP. GILBERT said he would carry SB 346.

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE 3-19-91

NAME	PRESENT	ABSENT	EXCUSED
REP. MARK O'KEEFE, VICE-CHAIRMAN	✓		
REP. BOB GILBERT	✓		
REP. BEN COHEN	✓		
REP. ORVAL ELLISON	✓		
REP. BOB REAM	✓		
REP. TOM NELSON	✓		
REP. VIVIAN BROOKE	✓		
REP. BEVERLY BARNHART	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. DAVID HOFFMAN	✓		
REP. DICK KNOX	✓		
REP. BRUCE MEASURE	✓		
REP. JIM SOUTHWORTH	✓		
REP. HOWARD TOOLE	✓		
REP. DAVE WANZENRIED	✓		
REP. BOB RANEY, CHAIRMAN	✓		

CS05NATRES.MAN

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Natural Resources

COMMITTEE

BILL NO. SB 400

DATE 3/19/91

SPONSOR(S) Sen. VanValkenburg - Absolute liability solid waste disposal

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jim Jensen	MEIC	X	
Tracy Hill	Champion Int'l	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

3-20-91
JDB

HOUSE STANDING COMMITTEE REPORT

March 20, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 400 (third reading copy -- blue) be concurred in as amended .

Signed: Bob Raney
Bob Raney, Chairman

Carried by: Rep. Southworth

And, that such amendments read:

1. Title, line 7.

Following: "LIABLE;"

Insert: "CLARIFYING THE PROHIBITION AGAINST DUMPING SOLID WASTE ON PUBLIC PROPERTY;"

2. Page 1, line 19.

Following: "public"

Strike: "recreational"

3. Page 1, line 24.

Following: "public"

Strike: "recreational"

4. Page 2, lines 17 and 18.

Following: "exceed" on line 17

Strike: "\$1,000"

Insert: "\$5,000"

Following: "."

Strike: the remainder of lines 17 and 18

5. Page 2, line 24.

Following: "public"

Strike: "recreational"

SENATE BILL NO. 400

INTRODUCED BY VAN VALKENBURG

A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING ABSOLUTE LIABILITY ON THE OWNER OR FORMER OWNER OF SOLID WASTE DISPOSED OF IN VIOLATION OF STATE LAW; IMPOSING A CIVIL PENALTY FOR PERSONS FOUND ABSOLUTELY LIABLE; CLARIFYING THE PROHIBITION AGAINST DUMPING SOLID WASTE ON PUBLIC PROPERTY; AND AMENDING SECTIONS 75-10-212 AND 75-10-233, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-10-212, MCA, is amended to read:

"75-10-212. Disposal in unauthorized area prohibited -- exception. (1) No person may dispose of solid waste except as permitted under this part.

(2) It shall be unlawful to dump or leave any garbage, dead animal, or other debris or refuse:

(a) in or upon any highway, road, street, or alley of this state;

(b) in or upon any public ~~recreational~~ property, highway, street, or alley under the control of the state of Montana or any political subdivision thereof or any officer or agent or department thereof;

(c) within 200 yards of such public highway, road, street, or alley or public ~~recreational~~ property;

(d) on privately owned property where hunting, fishing, or other recreation is permitted, provided this subsection shall not apply to the owner, his agents, or those disposing of debris or refuse with the owner's consent.

(3) ~~The owner or former owner of any garbage, dead animal, or other debris or refuse disposed of~~ ANY PERSON in violation of this section is absolutely liable, as provided in 45-2-104, and is subject to the civil penalties provided in 75-10-233."

Section 2. Section 75-10-233, MCA, is amended to read:

"75-10-233. Dumping penalty -- enforcement. (1) Any A person found guilty of a violation of ~~75-10-212(2)~~ 75-10-212 shall be fined in the sum not exceeding \$100 or imprisoned in the county jail for a period not exceeding 30 days or be punished by both ~~such~~ fine and imprisonment, in the discretion of the court.

(2) A person found absolutely liable under 75-10-212 is subject to a civil penalty not to exceed ~~\$1,000~~ \$5,000. Each day-of-violation-constitutes-a-separate-offense.

(3) The provisions of ~~75-10-212(2)~~ 75-10-212 shall be enforced by all highway patrol officers, sheriffs, policemen, and all other enforcement agencies and officers of the state of Montana. In addition, game wardens shall have the right to enforce the provisions of ~~75-10-212(2)~~ 75-10-212 on public ~~recreational~~ property and on private